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Liquor Control:

Principles

Model Law

A Report of the Committee on Liquor Control Legislation of the National Municipal League
Frank O. Lowden, Chairman
Luther Gulick, Secretary

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The Committee on Liquor Control Legislation of the National Municipal League

THE session on Saturday afternoon, November 11, of the National Conference on Government, held in Atlantic City on November 9, 10, and 11, 1933, was devoted to the subject of Government Control of Liquor. At that meeting the following resolution was passed:

WHEREAS, the repeal of the Eighteenth Amendment returns to the several states the problem of liquor control, and

WHEREAS, the combination of the license system in some areas, with prohibition in others, was not satisfactory in the several states before 1920, and

WHEREAS, the inevitable desire for private profit of those who traffic in liquor is the fundamental reason for the failure of the license system, the evasion of the regulatory provisions, the development of liquor politics, the corruption of enforcement agencies, and the thwarting of temperate habits and temperance education; therefore

BE IT RESOLVED by the National Municipal League: first, that the first objective of liquor control legislation be the elimination of private profit in the retail distribution of alcoholic beverages; second, that the State Alcohol Control Authority Plan as outlined in the Fosdick-Scott report, "Toward Liquor Control," offers the most promising plan for eliminating private profit and establishing satisfactory liquor control; and third, that a special committee be appointed by the League to outline principles and specific measures for state liquor control legislation.

Former Governor Frank O. Lowden, of Illinois, consented to serve as chairman of the committee established in accordance with this resolution. The members are as follows:

Hon. Frank O. Lowden of Illinois, *Chairman*
Luther Gulick, Director, Institute of Public Administration, *Secretary*
Frank Bane, Director, American Public Welfare Association
Louis Brownlow, Director, Public Administration Clearing House
A. E. Buck, Institute of Public Administration
Fred G. Clark, Commander-in-Chief of The Crusaders
Senator Thomas C. Desmond of New York
Senator John W. Eggleston of Virginia
Professor Marshall E. Dimock of Chicago University
Miss Lavinia Engle, Director, Maryland League of Women Voters
Mark Graves, Commissioner of Taxation and Finance, New York State
Arnold Bennett Hall, Director, Institute for Government Research, Brookings Institution
Leonard V. Harrison, Bureau of Social Hygiene
Howard P. Jones, Secretary, National Municipal League
Simeon Leland, Commissioner of Taxation, Illinois
Senator Seabury C. Mastick of New York
C. H. Morrissett, State Tax Commissioner, Virginia
Rodney L. Mott, Editor of *State Government,* Chicago
Senator Henry W. Toll, Secretary, American Legislators' Association
Lent D. Upson, Director, Detroit Bureau of Governmental Research
Governor John G. Winant of New Hampshire

Margaret G. Schneider, *Staff Assistant*

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Principles Governing Liquor Control Legislation

By the Committee on Liquor Control Legislation of the National Municipal League

Opinion is practically unanimous that liquor legislation in the United States in the immediate future must have three principal aims: first, to eliminate as far as possible the abuses resulting from the intemperate use of alcoholic beverages; second, to eliminate bootlegging, the speakeasy, corruption and all related forms of lawlessness; and third, to relegate the liquor problem to its proper place so that it will not overshadow and dominate all other social and political issues.

These objectives are interrelated and often in conflict. Our own prohibition experiment has demonstrated that laws designed with the sincere intent of checking the evils of over-indulgence may not only increase bootlegging but also defeat their own purpose. A study of the experience of this and other countries in the long struggle with the liquor problem discloses certain fundamental principles which must be kept in mind in devising legislative schemes to achieve these aims.

I

For the purpose of minimizing excessive use of alcohol, legislation in general should be guided by these principles:

1. The private profit motive for stimulating retail sales must be removed so far as it is possible. It was the private liquor business, intent on profits and sales, that resulted in the intensive development of the old saloon with all its evils and abuses. It is with this experience in mind that state management of the sale of hard liquor has been proposed. In response to the public demand for temperance the state will content itself with the minimum sales volume. It would not push the business for the sake of the profits.

2. The laws and regulations must differentiate between light wines and beers on the one hand, and hard liquors on the other. The experience of every country indicates that beers and wines do not create a serious social problem. The laws, therefore, defining both the conditions of sale and the taxation of alcohol, while conforming to the general principles of reasonable regulation and low taxation, should favor the beverages of lower alcoholic content, making them freer of access and much cheaper than distilled liquors.

3. The limitation and control of advertising is necessary in order that the use of alcoholic beverages may not be stimulated. (See also Section III, paragraph 3.)

II

In the past the chief factors that have contributed to a flourishing illicit liquor trade have been, first, legal restrictions and regulations so strict as to be regarded as unreasonable or un-

just by large numbers of people who, therefore, become eager patrons of dealers willing to evade these regulations; second, high prices induced by strict regulation, and third, high taxes and licenses giving the illicit manufacturer and bootlegger a wide margin which enables him to undersell the legal, tax-paid product and still make an ample profit.

The underlying principles involved in attempting to demobilize the bootlegger and keep him dispossessed are, therefore, clearly indicated:

1. The laws defining the conditions of sale must express the desires of living men and women. These laws, as regards liberality or strictness, must so harmonize with customs, habits and widely accepted modes of personal conduct that they will be regarded as just and reasonable and will consequently be supported by a preponderant majority of the people.

2. Public opinion varies from state to state and from locality to locality within a single state. It is therefore essential to recognize the principle of local option as a means of adapting the law to local conditions. Heretofore local option provisions have made it possible for voters in counties and sometimes in cities to keep localities dry within states which, as a whole, were wet. It has been suggested that the principles of local option may also be made to work in the opposite direction, namely, to permit certain localities to legalize methods of sale which are more liberal than those prevailing in other parts of the state.

A middle ground position in regard to regulation by the state, leaving to local communities the decisions regarding greater strictness or greater liberality, would seem a sound principle in devising systems of state liquor regulation.

3. Taxes of whatever kind should be levied primarily as a means of social control rather than for revenue. Taxation, which in other countries, notably Denmark and England, has been used as a powerful factor in decreasing consumption of alcohol, must here and now be applied with caution. The governments, including federal, state and local, must fix the rates of taxation at sufficiently low levels to make it unprofitable for the illicit manufacturer, bootlegger, and smuggler to operate.

4. Retail prices of alcoholic beverages must be kept low, especially during the transitional period. Nothing else will serve to stifle the illicit trade so promptly. Tax policies, restrictive regulations, price policies and controls must all recognize the necessity of low prices.

III

Under prohibition the most talked-of and over-advertised thing in America was liquor. Even before that, liquor usurped the spotlight and often overshadowed every other issue. In many cases incompetent and vicious men were elected to legislative and executive offices merely on the liquor issue, and important social and governmental questions were inadequately considered or improperly decided because the red herring of liquor was drawn across the trail. If the liquor question is to be relegated to its proper proportionate place in politics, in conversation, and in life, it would seem desirable to work along the following lines:

1. Establish liquor controls under *administrative* rules and supervision instead of under *detailed laws* subject to continual legislative change.

2. Discourage continuous local option agitation by prohibiting too frequent local option elections, and by curbing abuses as they arise through administrative supervision.

3. Regulate or prohibit liquor advertising.

4. Adopt a solution of the liquor control problem which by eliminating

private profit largely takes liquor out of politics and politics out of liquor.

IV

The best method of eliminating the private profit motive in the sale of liquor seems to be the establishment in the various states of State Liquor Control Authorities, to operate state-owned agencies similar, in some respects, to the government retail stores in the several provinces of Canada. Under this plan hard liquor in bottles could be bought only at the state-owned retail stores or agencies. The sale of beer and wines, not necessarily limited to the state stores, could be licensed by the Authority. The sale of hard liquor, by the drink, in restaurants, hotels and clubs may or may not be permitted, depending upon the requirements of individual states.

"The State Liquor Authority Plan fulfils the fundamental requirements of a sound liquor control system. It eliminates competitive profits, the incentive to stimulate appetite, and the desire to increase sales; it provides the power and the incentive to drive out the bootlegger; it eliminates the saloon and vastly simplifies the problem of inspection and enforcement; it makes possible the limitation of liquor advertising within narrow bounds and paves the way for temperance education; it solves the twin problems of taxation and pricing; finally, it minimizes the opportunities of political influence and lays the foundation of a workable administrative system. The Authority plan is simple; it provides for all of the natural desires of the drinker; it protects the interests of society; it is thoroughly practical."[1]

V

There are certain basic considerations in relation to the administration of liquor legislation to the end that this administration may be made workable and freed as much as possible from politics.

1. The State Liquor Control Authority should be invested with broad administrative powers in order that it may make rules and regulations in its own discretion, thus removing the details of liquor control as far as possible from frequent legislative debate and political manipulation. (See above, Section III, paragraph 1.)

2. The members of the Authority must be selected for ability, merit and integrity and not because of political favoritism. Provisions regarding salaries should be generous enough to conform with the size and importance of the task and to command the services of men of proper qualifications.

3. The State Authority members must be given long terms and freedom from interference; local option votes must not be too frequent, and the public must insist, first, that the original settlement of the problem is carefully considered; and second, that the plan adopted is given a fair chance.

Respectable and responsible persons will not accept official administrative posts or apply for agencies unless a reasonable degree of continuity is maintained in liquor control policy and administration.

4. The effectiveness of any state plan of control depends in large measure upon federal and state cooperation. This cooperation will involve the development and adoption of a rational and reasonable scheme of taxation, a consistent program of federal import duties, federal cooperation in controlling liquor transportation and advertising, and possibly, in part as a service to the states, the development of a federal wholesale liquor monopoly as a revenue and control measure.

5. Prompt action is essential. The best time to adopt the State Authority

[1] *Liquor Control: A Plan for Illinois*, by Marshall E. Dimock, published by Union League Club of Chicago.

Plan with state retail stores is before the retail liquor trade is firmly reestablished under licenses or other devices.

VI

Though legal provisions and administrative rules and regulations are of great importance, the major problem is not legislation but national habits. The future, therefore, rests with education in its broadest sense. With this in mind, schools, state departments of education, the schools of education, colleges, universities, and private organizations interested in the family and in education are urged to undertake anew the development of rational and scientific programs of education both of adults and of the rising generation. What we need is not more laws on temperance education but greater dissemination of honest, unemotional, scientific information in the ordinary course of schooling and through the media of education which meet the adult population.

CONCLUSION

Liquor control is, under any circumstances, a difficult social problem. The only chance for success rests upon a solid foundation of support, cooperation, and vigorous leadership on the part of disinterested and responsible citizens. At the present moment, the greatest danger is the apathy of good citizens and the failure of those who believe in genuine temperance and liquor control to agree upon a specific program. The license system and the saloon, and all of the old abuses of the liquor business, will return unless positive and aggressive action is taken at once. It is with this in mind that we endorse the State Liquor Authority Plan and urge its support.

Hon. Frank O. Lowden, of Illinois, *Chairman*
Frank Bane, Director, American Public Welfare Association
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Arnold Bennett Hall, Director, Institute for Government Research, Brookings Institution, Washington, D. C.
Leonard V. Harrison, Bureau of Social Hygiene
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Rodney L. Mott, Editor of *State Government*, Chicago
Senator Henry W. Toll, Secretary, American Legislators' Association
Lent D. Upson, Director, Detroit Bureau of Governmental Research
Governor John G. Winant of New Hampshire
January 1, 1934.

Liquor Control from the Standpoint of a Toxicologist

Dilution as a Major Factor in Preventing the Evils of Alcoholism

By Yandell Henderson

(A Summary)

Professor Henderson stated that any real solution of the liquor problem must be based upon fundamental differences in types of alcoholic beverage.

"In order to bring out the significance of these principles, I am going to use the word intoxicating as little as possible. Instead I shall use a closely related word, 'toxic', and toxic means poisonous. I am going to compare the control that is needed over drinks that are, or may be toxic, and those that are not.

* * * *

"The ethyl alcohol of all alcoholic beverages, if imbibed in high concentration exerts powerful toxic effects upon the brain and upon other organs of the body, notably the stomach. But when alcohol is sufficiently diluted, these toxic effects are diminished or abolished. Toxicologically there is a wide difference between the concentrated and the diluted alcoholic beverages.

"Obviously sensible and practical liquor control . . . . should make an equally wide difference between the dilute and the concentrated alcoholic beverages. Sane measures of control should permit or even promote the use of dilute and harmless beverages, but should maintain a strict control over the concentrated, and therefore toxic, alcoholic beverages.

"The first requirement for such control is that so far as possible the various classes of alcoholic beverages shall be kept separate. In other words, light beer with its 4 per cent of alcohol and whiskey with 30 per cent of alcohol should never be dispensed under the same conditions, or over the same bar, or on the same table."

Professor Henderson states that treating all alcoholic beverages as if they were alike and subjecting them all to the same regulations is as inconsistent as if the alkaloids tea and coffee were subject to the same restrictions as those imposed upon the closely related narcotic alkaloids morphine and cocaine.

"This is not an overdrawn analogy. The stronger alcoholic beverages, such distilled spirits as whiskey, gin, rum, and brandy can wreck a man, mind and body, as effectually as either morphine or cocaine. On the other hand, I believe . . . that a glass of light beer is no more intoxicating, that it is no more toxic, than a cup of coffee and rather less so than a cigar.

"In all of the recent reports the idea of separating the different classes of alcoholic beverages is given increasing importance. To my mind it is the feature of supreme importance. There should be no licenses for the general sale of all alcoholic beverages from beer to full strength spirits for consumption on the premises. Such licenses would immediately revive the old saloon and the saloon system.

"So far as possible a place licensed to sell beer should not be licensed to sell spirits or even wine. It would be well if a place licensed to sell wine should not be allowed to sell any alcoholic beverage of less than 8 per cent or more than 18 per cent of alcohol. A store licensed to sell proof spirits should not be allowed to sell any weaker beverage, or to permit drinking on the premises.

"All of these proposals are perfectly simple, scientific, practical and feasible in every feature except one. That feature applies to clubs and hotels, and especially to the large hotels and their restaurants in large cities. But even for such hotels this separation is not impracticable. The grill might be al-

lowed to have a beer license and the restaurant a wine license, providing that drinks are not interchanged between the grill and the restaurant."

Professor Henderson states that whiskey diluted in a highball does not have as much effect upon the drinker as the same amount of whiskey taken straight. In like manner "the effect of one cocktail of 30 per cent upon a man's behavior, self-control and ability to drive an automobile is much greater than is the effect of two cocktails of equal volume containing only 15 per cent of alcohol."

Professor Henderson advocates a scheme by which the sale of mixed drinks, i. e. whiskey already diluted and cocktails already mixed, would be taxed at rates and sold at prices proportionately much lower than the tax rates and prices of the concentrated whiskey, gin and other alcoholic ingredients. This would encourage the purchase of the diluted forms of alcoholic liquors. Hotels, restaurants, clubs, etc. should be required to sell the stronger forms of alcoholic beverages only in a dilution below 20 per cent. "Any man . . . . would not object to pouring the highball out of a pint bottle in which the whiskey had been mixed with carbonated water at the distillery, instead of doing the mixing himself, if it cost only half as much." This arrangement, Professor Henderson believes, would give ample scope for the popular cocktails and highballs.

Full strength or proof spirits or any form of alcohol above 20 per cent should be obtainable only from the Government agencies or the licensed package stores.

"But before a citizen should be allowed to buy proof spirits he should have to get a license, similar to that for driving an automobile, which would certify that he is a law-abiding and fairly temperate person.

"To sum up . . . . the one great principle to be kept in view . . . . is that of substituting the more dilute for the stronger alcoholic beverages. It is the concentration, the high percentage of alcohol in American drinks, that produces the evils of alcohol even more than the absolute amount of alcohol consumed."

From the standpoint of practical politics, Professor Henderson believes "the primary object of all who hope and work for the best attainable conditions should be to prevent the return of the local control of licensing: that is, licensing by cities, towns and counties, through boards of local politicians. Instead . . . . the licensing power . . . . should be exercised by a state board appointed by the Governor."

Professor Henderson points out the fact that "if a sufficient majority of the people is to be won . . . . for the effective control of alcoholic liquors . . . . that majority must include a large number of people who up to this time have been Drys. The campaign of public education must be aimed quite definitely to win this support. They are for the most part earnest, conscientious people, but almost hopelessly ignorant. They quite generally believe—impossible as it sounds—that beer makes more drunkards than whiskey . . . . Such a view is toxicologically as unsound as it would be to class coffee and tobacco with morphine and cocaine. It demands an impossible degree of asceticism. Yet this is the attitude of large numbers of worthy people; and until it is changed those who are striving for sane liquor control are in the unfortunate position of fighting on two fronts. At present we have to fight the old liquor interest and corrupt politics on one front and the Drys of the type I have indicated on the other."

After Prohibition What Form Should Liquor Control Take?

By Albert L. Scott

(A Summary)

If America is to deal successfully with liquor control, Mr. Scott states, certain attitudes or points of view toward liquor held by large numbers of people must be changed. In the first place, recognition should be given to the fundamental differences between beverages in which the alcohol is considerably diluted and distilled liquors with alcohol in greater concentration.

In the second place, the common belief that the use of beer and wine necessarily leads to the drinking of distilled liquor has no scientific proof and may not be true. Much more study is needed on this point.

In the third place, the liquor trade must be recognized as legitimate.

"At present American opinion seems to be setting in the following molds:

(a) People are determined to throttle the bootlegger and stamp out the frightful evils he carries with him.

(b) People are generally convinced —at least those are who remember far enough back—that the saloon must not return.

(c) They feel that some way must be found to keep the liquor interests out of politics.

(d) They are inclined to welcome the return of beer and they think that their attitude in the past toward wine may have been an ignorant one.

(e) They are generally opposed to the free sale of spirituous liquors although they have a friendly feeling for that blend of spirituous liquors known as the cocktail.

"Any system of control which may be devised must take into account these prevailing attitudes if it is to succeed. It must also realize that some of them are in a state of unstable equilibrium—the prevailing opinion against the saloon, for example—and that such gains as are possible in the control of liquor by codifying into law the prevailing opinion toward bootleggers, saloon and hard liquor, must be realized on quickly. Otherwise, the country may drift into a certain acceptance of a poor method of control from which it will be difficult to rouse it.

"Another feature of the case which it is well to remember is that for the past fourteen years alcohol has had more free advertising than anything else in the country. From before the enactment of the Eighteenth Amendment liquor has been the one unfailing topic of pullman washrooms, dinner parties and miscellaneous social gatherings. Only since repeal became evident has this free advertising diminished. What is now done should so nearly meet public approval that the drinking of alcohol should cease to be a topic for general discussion. We should only talk about it as we do the use of tea or fruits or tobacco. Much of the glamor of drinking will disappear if it becomes commonplace. Whether it will become commonplace or not depends largely upon the wisdom with which different control systems are developed in the different states.

"It would be a fatal error if the American tendency toward uniformity should result in the same program for control being adopted for each American state. Our states vary widely in their population, their climate, their ethnic backgrounds, their educational programs, their wealth and their modes of life. But because of a universal language, the radio, a highly developed telephone and telegraph system, the

American is peculiarly susceptible to mass thinking—or lack of it—which leads him to do the thing his neighbor does regardless as to whether it suits him or not. Each state should try out for itself the method which suits it best. In doing this the broad general principles should be followed of not making the legislation too specific, to leave room for experiment and to attain a satisfactory system by trial and error."

Mr. Scott then discussed the three procedures for liquor control—prohibition, license and state monopoly or authority. While admitting that in states where sentiment is preponderantly in favor of prohibition that type of procedure may be most satisfactory, "it must be borne in mind," Mr. Scott continues, "that even a state which can muster a strong majority for prohibition, should allow liquor to be shipped in under not too rigid restrictions. Otherwise, the bootlegger will flourish to satisfy the desires of the minority. The difficulty of enforcing prohibition in a state is no new thing. It has existed as long as there have been prohibitory laws. The difficulty of enforcement is greatly increased if the law does not sympathetically consider the wishes of the minority and provide that those wishes may be satisfied. The greatest single mistake of all mandatory legislation is that it is likely to be too rigid, too unresponsive to the desires—often violent—of the minority.

"Another difficulty with prohibition legislation is that it does not take into account the variations in the alcoholic content of different beverages. All are equally condemned—light beer and vin ordinaire, along with gin and absinthe. The American people have always recognized in their habits a distinction between the different kinds of alcoholic beverages even if the legislators did not. Any future legislation which treats all alcoholic beverages alike will have more difficulty in securing public support than such legislation formerly would have had. The public now, through years of agitation, is better informed and much accurate scientific work has been done to show the effects of different types of alcoholic beverages on the human system."

The license system in spite of its failure in almost every state still has some features which have made it popular in many quarters.

"The license system made an appeal to our love of individualism, it provided local revenue, it placed the control of sales in the hands of the local community, in its later phases it developed the principle of 'local option.' Finally, what was very important for many conscientious people, it seemed to keep the state out of the liquor business. That this latter contention was a fallacy did not deter many people from adhering to it. How can a state be considered out of the liquor business when it licenses the sale of liquors, regulates hours of sale, levies special taxes on both manufacture and sale? In any system, prohibition, license or authority —the state is in the liquor business."

Moreover, the license system has certain inherent weaknesses. It inevitably puts the liquor business into local politics. It involves the private profit motive in retail sales.

"As long as the profit motive prevails, there can be little hope for control or diminution of sales. What is the vendor in business for? To make money—and to make money means sales stimulation in every possible way. The net result of all this was that the saloon—the visible expression of the license system—came into notoriously bad repute. Worse than that, it stank to heaven. The Eighteenth Amendment was not so much directed toward the drinking of alcoholic beverages as it was against the disreputable vehicle America had developed for dispensing them. It is almost unthinkable that

the American people will ever allow the old evil institution to develop again. If by carelessness or stupid intent we do let the saloon develop, it is only a question of time when it will again be annihilated. Nothing could be more stupid than for the liquor manufacturers—especially the brewers—even to allow the saloon again to emerge.

"In states where prohibition cannot be enforced and where public sentiment will back up a program for an unstimulated sale of liquor, the best method yet developed for control seems to be for the state to take over the retail sale of beverages of high alcoholic content. There are some real objections to this course. One is that it brings the state directly into the liquor business—a very distasteful solution for many people. Another is that all experiments with state or county sale of liquor in this country have never proved to be satisfactory. These were carried on mostly in the South and Southwest under what is known as the 'dispensary system'."

Mr. Scott then points out very clearly that the Authority Plan cannot be condemned because of the failure of the South Carolina dispensary system. There are fundamental differences between the two ideas.

"Nearly every proviso of the State Authority Plan as recommended in 'Toward Liquor Control' was violated in the South Carolina Dispensary Act. It did not have the support of the best elements in the State, it did not entirely eliminate the element of private profit, it did not provide for a properly constituted State Board with ample compensation, and finally, it never could secure the services of upright men either on the State or Local Boards. It is impossible to compare the Dispensary Law in South Carolina with the Authority Plan which we have suggested. They are quite separate and distinct. The facts of the case do not indicate that the failure of the South Carolina Dispensary Plan is a sufficient reason for not now proceeding to set up a State Control Authority.

"The Dispensary Plan failed in South Carolina because of fatal defects in the plan itself to say nothing of the lack of support of a large and influential group of people in the State. These difficulties must be remedied in any State Authority plan which is to succeed. The general principles to be followed are simple. They are:

(a) The law must not be the result of political rancor of such intensity as to prevent a general acceptance of the act.

(b) The object of the law must be the control of the sale of spirits for the benefit of society and not for tax purposes.

(c) The law must be simple in outline and one which lays down general principles but which gives wide powers to the Authority in matters of administration.

(d) The Authority must be set up for a term of years, appointed by the Governor, and should be free from political influence.

(e) The State Authority Board must be a small compact body of men who receive ample compensation for their work.

(f) They must be men of the highest type known for character and probity.

(g) The law and the Authority must have the support of a substantial majority of good citizens who in the end are the mainstay of any law and the backbone of its enforcement.

"In recommending an Authority Plan for Liquor Control, we are not so naive as to think we have found the final solution to handling the liquor traffic. We are under no such illusions, but we do venture to hope that the Authority method proposed with popular support behind it may, in a large number of states, be found to be for the present at least, the best plan for dealing with this most baffling and perplexing question."

Quebec's Experience

By Walter G. Mitchell, K. C.

(A Summary)

Mr. Mitchell, the "father of Canadian liquor control legislation," outlined the experience of Canada, and more particularly of Quebec, referring to the complete failure of the earlier prohibition law. This law, introduced in Quebec with the expectation that it would last two years, was abandoned after a trial of fourteen months.

"Our whole problem," Mr. Mitchell stated, "was to find some law which would get the backing of public opinion . . . .

"We created the Quebec Liquor Commission—gave it absolute authority to control the liquor question in the province. We took it absolutely out of the hands of the government . . . I informed him (the first commissioner) that there were only two reasons why I should dismiss him—one was if he wasn't a good administrator, and the other was if he allowed any politician, including the Prime Minister and myself, to interfere."

Mr. Mitchell emphasized the importance of giving the Liquor Commission wide powers, and of the complete separation of this Liquor Commission from any of the other governmental or political functions of the state.

Mr. Mitchell made three recommendations, based on Canadian experience:

1. That revenue from the sale of liquor should be used specifically for the reduction of public debts. This goes even further than the Rockefeller report which recommends that this revenue go into the general treasury rather than being allocated for hospitals, schools, etc. Ear-marking these revenues to reduce public debt would still further remove the danger of having them used for political propaganda under the guise of good roads, education, etc., and the danger of pressure on the government by politicians to expand sales, which will destroy any kind of government control ever adopted. (Later in the speech this point was again referred to when Mr. Mitchell spoke of the necessity for eliminating profits to an individual.) "Not only take out the profit to the individual, but be careful that you cage that money where it will do the least harm, and I think the place where it will do the least harm would be by retiring the public debt. When you are reducing the public debt, you are reducing taxes. If you leave it in the public treasury you are going to have it spent and in consequence you will have greater taxes."

2. That sale of strong liquors should be limited to one bottle at a time. This feature was condemned and considered ridiculous by many when first suggested in Quebec. However, "of all the provisions adopted in that Act there is nothing that contributed to temperance as much as that section."

3. That sale of beer and wines be encouraged. "The principle we adopted is to charge (for strong liquor) as much as the trade will stand, sell as little as you can, but encourage the sale of wines and beer . . . . We allowed the sale of beer and wines in hotels with meals during ordinary hours and we gave to the taverns the right to sell beer and beer alone . . . . It has made for temperance, reduced the amount of alcohol that has been sold, and has increased the sale of beer and wines, and I think I can safely say that today the Province of Quebec is sober and better contented and satisfied with this liquor legislation than it has been any time since it was introduced and . . . . much better satisfied than under the old license system where we had free and open sale everywhere."

Some Observations on Liquor Control

By HON. PIERRE S. DU PONT

(A Summary)

Mr. du Pont stated that the most important fact established by prohibition is that it is impossible to change a custom of centuries by mere legal fiat. The corollary of that fact is that law must be made to conform to popular opinion.

However, Mr. du Pont feels that despite the general failure of prohibition "it may ultimately appear that the social developments of the years 1914 to 1934 have resulted in a greatly diminished demand for alcohol or, what is better, a greatly diminished consumption of alcohol by the people of the United States."

At any rate, Mr. du Pont does not believe that the return of the old time saloon is imminent.

"During the years prior to 1914, the saloon was frequently referred to as 'the workingman's club' and in many places may have furnished his chief means of entertainment and relaxation from the cares of life.

"However, . . . powerful rivals to the saloon have arisen," says Mr. du Pont. He then points out that the radio, the talking machine, the player piano, the illustrated daily papers, low-priced magazines, the automobile, and the motion picture offer a variety of diversion not known in the days of the old saloon. Even the home itself, with its multitude of decorations, its furniture and ornaments, its modern comforts, including electric light, can go far in rivalling the attractions of the saloon.

"I have taken some time to call attention to these powerful rivals of the saloon in order to encourage the belief —which is very real to me—that we are facing today a position where we may be very little concerned about the possible return of the 'old time saloon.'

"But the existence of these rivals suggests another possible aid to temperance in the future—namely, a further stimulation of better living conditions as a means of reducing the desire for the mere deadening or distracting effects of alcohol."

Shorter working hours, with less weariness of mind and muscle, may easily reduce the desire for alcohol.

The fundamentals of satisfactory liquor control, Mr. du Pont lists as follows:

"1st. All operations concerning the manufacture, sale, transportation and use of alcoholic liquors must be brought into legal and honorable channels as quickly as possible in order to restore respect for law and respect for a national morale that has suffered much under prohibition.

"2nd. The places and time for sale of alcoholic beverages must conform to popular demand, even though we may deplore the existence of this demand and may be tempted to turn to prohibitory law and forceful methods for its regulation or suppression.

"3rd. The supply of beverages containing alcohol must be made as pure and wholesome as possible, not only by force of law and by inspection but by making known the dangers of impure and injurious drinks and the means of avoiding their use.

"4th. The method of conducting the liquor traffic should tend to diminish rather than to increase the consumption of beverage alcohol.

"5th. The business of manufacture and sale of beverage alcohol should be disturbed in its natural course of competition as little as possible.

"6th. A reasonable public revenue should flow from the liquor traffic. . . .

"Consideration of the fundamental

factors above mentioned have led me to the conclusion that we should strive for a well distributed supply of good liquors conveniently obtainable at reasonable prices which should not be increased by extraordinary rates of tax. The trade should be allowed the profit that will flow to it through natural competition of State supervised manufacture and sale conducted under license by private enterprise.

"This brings up the question of government participation in the liquor traffic. I myself had been disposed to accept such a plan as wise, especially in view of its success in the Provinces of Canada. But, for use in the United States, I have developed the gravest doubt. Inevitably State control would mean eventual political control. It is unfortunate that our political system with its blind adherence to party almost regardless of principle would certainly bring about frequent changes in management, such as utterly to destroy a privately owned business, and, worse still, the management would undoubtedly be appointed with more regard to the award of a salaried position to an individual than to the interests and welfare of the liquor traffic." . . .

"You realize from my remarks that I now favor a system of licensing the manufacture and sale of alcoholic beverages. . . . Such is the fact. While this plan may be called a step backward to the old saloon and its evils, I have no fear of such consequence. Without restoration of a freedom of action comparable to that enjoyed by other business enterprise, I do fear that we shall not succeed in eliminating the system of illegal selling now so well entrenched. This system has been made successful and powerful merely by rendering a public service denied to our people through legal means."

Mr. du Pont then mentions several points brought out by his experience on the Delaware Liquor Commission.

First of these is the point that there is so great a demand for beer and probably for all kinds of alcoholic drink on Sunday that it seems better and more reasonable to legalize Sunday selling than to accept the alternative—illegal selling by the bootlegger and speakeasy.

The same is true of selling after midnight. This question, Mr. du Pont thinks, could well be decided on the basis of recommendations by the retail trade and administrative authorities of each locality, or better still after a local referendum.

Mr. du Pont admits that the question of the bar is puzzling, but concludes that there is little objection to the bar if the service of drinks is from a source sufficiently remote to avoid the relation of host and guests between the barkeeper and his customers. The Delaware law forbidding the sale of beer over a bar or counter to a person either seated or standing has proven needlessly strict, especially as applied to restaurants and quick lunch places.

Advertising should be restricted to the minimum. The tremendous amounts of money spent in advertising demonstrate the value of this medium for increasing sales. It should be definitely limited.

The proper recording of all liquor transactions is very important and over a period of time will prove valuable. The requirement for a personal license in order to obtain quantities greater than 12 quarts of beer and wine or one quart of spirits has already been justified.

Mr. du Pont concludes with a qualified prediction that the total alcohol consumed may not be much more than half as much per capita as it was in 1914 with a far greater proportion of this consumption in the form of beer and other beverages of moderate alcoholic content.

Selected References

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Gebhart, John C. The Bratt system of liquor control in Sweden. 2nd ed. Washington, Association Against the Prohibition Amendment, 1930. 32 pp.

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OUTLINE OF MODEL BILL

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Model Law

The Committee on Liquor Control Legislation of the National Municipal League presents herewith a draft of a Model Law for establishing a State Liquor Control Authority. This draft is not to be considered as the final word in such legislation, nor has it been approved line by line by each member of the Committee. It should be useful, however, as a check list of suggestions and points to be covered, subject to change or adaptation according to the needs of the individual states, in drafting suitable legislation. The Committee is especially indebted to Dr. Elizabeth Laine for extensive assistance in the preparation of this draft.

A Bill Entitled

An Act to provide a system of state control of the manufacture, purchase, sale, importation, exportation, transportation, and use of alcohol and alcoholic liquors; to create a State Alcohol Control Authority and to provide for the sale of alcohol and alcoholic liquors by such Authority; to make an appropriation therefor; to provide penalties for the violation of the provisions of this Act; and to provide for local option.

Be it enacted by the Legislature of the State of ————:

Part I. Short Title and Preliminary Provisions

Section 1. **Short Title.** This Act shall be known and may be cited as the State Alcohol Control Act.

Section 2. **Enacting Clause.** On and after the effective date of this Act, it shall be lawful to manufacture, sell, keep for sale, possess, and/or transport for beverage purposes, malt, vinous, and/or spirituous liquors, and alcohol and/or alcoholic liquor used for medicinal, mechanical, chemical or scientific purposes, subject to the terms, conditions, limitations and restrictions contained in this Act.

Section 3. **Definitions.** The following words and terms as used in this Act shall be construed as defined in this section:

(a) The word "Authority" means the State Alcohol Control Authority herein provided for;

(b) The word "Board" means the Board of Trustees of the State Alcohol Control Authority herein provided for;

(c) The word "Trustee" means a member of the Board of Trustees of the State Alcohol Control Authority herein provided for;

(d) The words "General Manager" mean the Managing Director of the State Alcohol Control Authority herein provided for;

(e) The word "alcohol" means the product of distillation of any fermented liquid, rectified either once or oftener, whatever may be the origin thereof, and includes ethyl alcohol and alcohol which is considered nonpotable;

(f) The term "alcoholic liquor" means any liquor having an alcoholic content in excess of one-half of one per centum by volume. The term includes beer, wine, fortified wine, and spirits as defined in this Act;

(g) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops and/or other cereals in drinking water, and shall be construed to include such malt liquors as beer, porter, ale, and stout;

(h) The word "wine" shall be construed to include the words "fruit juices" and shall mean any alcoholic beverage obtained by the fermentation of the natural sugar contained in fruits or other agricultural products with or without the addition of sugar but which has not been fortified by the addition of alcohol or spirits;

(i) "Fortified wine" means any vinous liquor produced through the natural fermentation of fruit juices with or without the addition of sugar to which has been added alcohol or spirits;

(j) The word "spirits" means any alcoholic liquor produced or manufactured by a process of distillation, rectifying, or compounding, and includes such spirituous liquors as brandy, rum, whiskey and gin;

(k) The word "maunfacture" means to distill, brew, make, rectify, blend, mix, compound, process or ferment any substances that will produce alcoholic liquor as defined under this Act;

(l) The word "brewer" means any person, firm, association, partnership or corporation duly licensed to manufacture and sell beer;

(m) The word "vintner" means any per-

son, firm, association, partnership or corporation duly licensed to manufacture and sell wine;

(n) The word "distiller" means any person, firm, association, partnership or corporation duly licensed to manufacture and sell spirits and/or alcohol of any kind;

(o) The words "State Liquor Store" mean a store established by the State Alcohol Control Authority under this Act for the sale of alcoholic liquor, other than beer of an alcoholic content not in excess of four per centum by volume, in the original package for consumption off the premises where sold;

(p) The word "vendor" means a person in charge of a State Liquor Store or State Retail Agency herein provided for;

(q) The words "to sell at retail" mean to sell for consumption and not for resale;

(r) The word "hotel" means a building which in the judgment of the Authority has been regularly used and kept open as such in a bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for such services are received if there be accommodations for them, and where the major portion of the receipts of the business is derived from the renting of rooms and the sale of food. The term "hotel" shall also include an apartment hotel wherein apartments are rented for fixed periods of time either furnished or unfurnished, where the keeper of such hotel regularly supplies food to the occupants thereof in a restaurant located in such hotel;

(s) The word "restaurant" means a place located in a permanent building or on a passenger train or passenger vessel, provided with special space and accommodations, where, in consideration of the payment of money, food is habitually sold and served to persons as the principal business of the place; provided, however, that this section shall not be construed to include drug, candy, and/or confectionery stores;

(t) The words "beer tavern" mean any place licensed to sell beer, of an alcoholic content not in excess of four per centum by volume, on draught or by the bottle, for consumption on the premises only;

(u) The words "liquor tavern" mean any place to which an agency agreement has been granted under the provisions of this Act for the sale of alcoholic liquors for consumption on the premises of such liquor tavern;

(v) The word "club" means an association of persons over the age of eighteen years, organized as a non-profit corporation, which has a listed membership with regular joining fees, and/or dues, by-laws, officers, directors, and designated premises approved by the Authority;

(w) The word "license" or "permit" means a grant from the Authority to a licensee or permittee giving permission to said licensee or permittee to manufacture and sell, or sell at retail, alcoholic liquors as provided by this Act.

(x) The words "agency agreement" mean an agreement between the Authority and a person, firm, or corporation engaged in good faith in the business of grocer, hotel or restaurant proprietor, or a club, whereby such person, firm, corporation or club agrees to sell, on behalf of the Authority, in accordance with the provisions of this Act, and upon such commission or other basis of compensation as shall be approved by the Authority in each instance, alcoholic liquors to be consumed or not to be consumed on the premises where sold.

Part II. The State Alcohol Control Authority

Section 4. **Creation of Authority.** An agency to be known and designated as the State Alcohol Control Authority is hereby created. Such Authority shall have the exclusive right to control within the state the traffic in alcohol and alcoholic liquor as provided by this Act.

Section 5. **Board of Trustees.** The Authority shall be under the general supervision of a Board of Trustees, consisting of three members appointed by the governor, one of whom shall be designated by the governor to be the Chairman of said Board. The appointment of said Trustees shall be for overlapping terms of nine years each, the terms of office of those initially appointed being for three, six, and nine years, respectively, the terms of the individual members being designated by the

governor at the time of their appointment. Each Trustee at the time of his appointment and qualification shall be a resident of the State of ———— and shall have resided in said State for a period of at least five years next preceding his appointment and qualification, and he shall also be a qualified voter therein and not less than twenty-five years of age. Each Trustee shall be eligible for reappointment. Vacancies on said Board shall be filled by the governor for the unexpired term.

Section 6. **Quorum.** Any two members of the Board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the Authority.

Section 7. **Salaries of Trustees.** The salary of each member of the Board shall be ——— thousand dollars per annum, except that of the Chairman, whose salary shall be ——— thousand dollars per annum. Each Trustee shall receive in addition to the salary hereinabove designated his actual travelling expenses incurred in the discharge of his duties as a member of the Board.

Section 8. **Removal from Office.** The governor may remove from office any member of the Board for malfeasance, misfeasance, or neglect in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel, in his own defense, upon not less than ten days' notice. If such Trustee shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such Trustee, and his findings thereon, together with a complete record of the proceedings.

Section 9. **Division of Authority between Board and General Manager.** The Board shall exercise all policy-determining powers of the Authority, including the promulgation of all regulations required to supplement the provisions of this Act, but it shall delegate to the General Manager, hereinafter created, all executive and administrative powers and duties of the Authority.

Section 10. **General Manager.** The Board shall appoint as the chief executive officer of the Authority, a General Manager, who shall serve at the pleasure of the Board. The General Manager shall receive an annual salary of ——— thousand dollars. He shall have charge of and supervise all of the executive, administrative, and managerial functions of the Authority, shall preserve all books, maps, documents, and papers belonging to the Authority or entrusted to its care, and perform such duties as are enumerated in subsequent sections of this Act, or such functions as may be assigned to him by the Board.

Section 11. **Employees.** The General Manager shall select and appoint all subordinate officers and employees of the Authority subject to the approval of the Board. He shall fix the salaries of such officers and employees subject to the approval of the Board, assign titles to their official positions, and define their respective duties. He shall have power to dismiss any subordinate officer or employee of the Authority whose service is unsatisfactory to him. He may engage the services of consultants and professional persons, whenever required, subject to the approval of the Board.

Section 12. **Organization of Work.** The General Manager shall organize and may reorganize the work of the Authority in such manner as he may consider most advantageous and economical from the standpoint of efficient management. The General Manager shall at all times cooperate with the regular departments and agencies of the State, making use of their facilities and services as far as possible so as to prevent needless staff duplication and excessive cost of operation.

Section 13. **Members of Authority not to be Interested in Liquor Businesses.** No officer or employee of the Authority may, individually or as a member of a partnership or as a shareholder or party otherwise interested in a corporation or other enterprise or association, have any interest, either direct or indirect, in manufacturing or trafficking in alcohol or alcoholic liquors, or receive any commission or profit from or have any interest in the purchases or sales made by the Authority or by the persons authorized by virtue of this Act to manufacture, purchase or sell alcohol or alcoholic liquors; provided no provision of this Act shall prevent any member or employee of the Authority from purchasing and keeping in his possession, for the personal use of himself or members of his family, any alcoholic liquor which may be purchased or kept by any person by virtue of this Act.

Section 14. **Powers, Functions, and Duties.** The Authority shall have and exercise the following powers:

1. To buy, have in its possession, and sell, or in its discretion serve, in its own name, alcoholic liquor in the manner set forth in this Act;

2. To buy, sell, mortgage, lease, or occupy any building or land required for its operations;

3. To borrow sums of money, guarantee the payment of principal and interest thereon; to issue, sign, endorse, and accept checks, promissory notes, bills of exchange, and other negotiable instruments;

4. To control the manufacture, possession, sale, purchase, transportation, exportation, importation, delivery, and use of alcohol and alcoholic liquor in accordance with the provisions of this Act;

5. To operate stores, to be known as State Liquor Stores, for the retail sale of alcohol and alcoholic liquors for off-premises consumption, and to determine the locations of such stores subject to the provisions of Part VII of this Act;

6. To grant, refuse, suspend or revoke licenses, permits, and agency agreements for the manufacture, purchase, and/or sale of alcoholic liquor, to determine the number of such licenses, permits, and agency agreements granted and to allow in its discretion the transfer of the license or permit or agency agreement of any person;

7. To determine the nature, form, and capacity of all packages to be used for containing alcohol or alcoholic liquor kept or sold under this Act;

8. To fix standards, define terms, regulate labels and seals for all alcohol or alcoholic liquor manufactured, transported, or sold within the State;

9. To fix the price of all alcohol and alcoholic liquors sold and to change such prices;

10. To require all licensees, permittees and agents within the State to certify on suitable forms the kinds and quantities of alcohol or alcoholic liquors manufactured within the State, or transported into the State, or transported, stored or held within the State, or transported from the State, regardless of the purposes for which such alcohol or alcoholic liquors may be used;

11. To promulgate rules and regulations governing the carrying out of this Act and supplemental thereto.

12. To have power to investigate and aid in the prosecution of violations of this Act, or of the regulations established hereunder, make seizures of alcohol or alcoholic liquor manufactured, sold, kept, imported, or transported in contravention hereof, whenever required by this Act, and cooperate in the prosecution of offenders before any court of competent jurisdiction;

13. To have power in its discretion to provide that every bottle or container of alcohol or alcoholic liquor shall on delivery or manufacture within the State and before subsequent sale be subject to inspection, stamping, labeling, and/or sealing by the Authority, subject to such rules and regulations as the Authority may establish;

14. To have all other powers necessary to the administration and enforcement of this Act.

Section 15. **Rules and Regulations to Have Force of Law.** All rules and regulations shall have the same force and effect as though incorporated and made a part of this Act. The rules and regulations adopted by the Authority and every repeal or amendment thereof shall state the date on which they shall take effect and certified copies thereof shall be filed in the office of the secretary of state. Copies of the rules and regulations and of any modifications thereof shall be published and distributed in such manner as the Authority may from time to time determine. Certified copies of the rules and regulations, as amended, shall be received in evidence in all courts or other judicial actions or proceedings in the State.

Section 16. **Immunity of Member of Authority.** No member of the Authority may be sued for doing or omitting to do any act in the performance of his duties as prescribed by this Act.

Section 17. **Power of Subpoena, etc.** Each member of the Authority shall for the purposes contemplated by this Act have power to issue subpoenas, compel the attendance of witnesses and the production of books, records, and documents, administer oaths, certify to official acts, take depositions within or without this State as now provided by law, and the Authority shall also have power to

render decisions reviewable only by courts of competent jurisdiction.

Section 18. **Appeals.** Any person or persons, jointly or severally aggrieved by any decision of the Authority or its employees or agents may make petition in writing for a hearing by the Authority. If after such hearing said aggrieved person or persons are not satisfied with the decision of the Authority or if the Authority fails to act within thirty days after the filing of such petition, said person or persons may present to a court of record a petition, duly verified, for certiorari proceedings, setting forth the grounds of complaint against the decision of the Authority. Such petition must be presented to the court within thirty days after the filing of the decision in the office of the Authority.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Authority to review such decision of the Authority and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice of the Authority and on due cause shown, grant a restraining order.

The Authority shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision of the Authority brought up for review.

Costs shall not be allowed against the Authority unless it shall appear to the court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

PART III. FINANCIAL PROVISIONS RELATIVE TO THE AUTHORITY

Section 19. **Working Capital—How Provided.** To finance the purchase, storage, and sale of alcohol and alcoholic liquors, the Authority shall have and maintain a working capital fund of ———— thousand dollars, or so much thereof as may be deemed necessary by the Board to carry on its business. This fund shall be provided by the state treasurer out of the general fund of the State, or out of any fund or funds in his hands which may be lawfully used for this purpose, or out of the proceeds from the sale of bonds by the State for this purpose. Such advances as the state treasurer may make to the working capital fund of the Authority shall be reimbursed out of the profits of the Authority. Or:

Alternative Section 19. **Borrowing Power.** The Authority shall have power to borrow money for the purposes of this Act upon bonds or other securities or obligations issued or incurred by the Authority upon such terms and conditions as it may deem proper. The profits of the Authority, in whole or in part, from the sale of alcohol and alcoholic liquors shall be pledged as security for the repayment of the bonds or other securities issued and for the reimbursement of any moneys advanced by the State, together with interest. The bonds or other securities or obligations issued or incurred by the Authority pursuant to this Section shall at all times be exempt from all taxation.

Section 20. **Fiscal Year and Allocation of Funds.** The fiscal year of the Authority shall be the same as that of the State. At the close of each quarter of the fiscal year, the profits of the Authority on the sale of alcohol and alcoholic liquors shall be computed by the General Manager, and the Board, after providing for the payment of interest upon and amounts necessary for the amortization and retirement of and fulfilment of the terms of all bonds and other securities or obligations of the Authority, and for any addition to working capital or reserves deemed necessary by the Board, shall turn over the remaining profits to the state treasurer. The state treasurer, after reimbursing any advances made to

the working capital fund of the Authority, shall credit these profits to the general fund of the State.

Section 21. **Disposition of Fees.** The General Manager shall account separately for all fees collected from licenses, permits, and agency agreements by the Authority, and he shall turn over these fees to the state treasurer in full at the end of each month, or at such other time as may be determined by the Authority.

Section 22. **Payments by the Authority.** All salaries, expenses, and other liabilities incurred by the Authority in connection with the administration of this Act shall be paid by the General Manager, or his designated agent, from the working capital fund or from moneys derived from the sale of alcohol and alcoholic liquors by the Authority.

Section 23. **Budget.** The General Manager shall prepare an annual budget, covering all the financial operations of the Authority, which he shall submit to the Board for its approval prior to the beginning of each fiscal year. A copy of such budget, as approved by the Board, shall be furnished to the governor, to the state auditor, and to the legislature.

Section 24. **Financial Procedure.** The General Manager shall devise and maintain a financial procedure, with suitable accounts, purchase and sales records, and inventories, to show at all times the complete and detailed transactions of the business conducted by the Authority and to furnish the information and reports required by this Act. In devising such procedure, the General Manager shall give due consideration to the requirements of the state auditor in all matters of general financing, reporting, and auditing.

Section 25. **Quarterly Financial Report.** The General Manager shall furnish quarterly to the governor and the state auditor a report containing a statement of the assets and liabilities of the Authority, a statement of profit and loss, and such other data and information as may be necessary to indicate the results of the Authority's financial operations.

Section 26. **Funds to be Kept in State Depositories.** The General Manager shall keep the working capital fund of the Authority and such moneys as may be collected from the sale of alcohol and alcoholic liquors and from licenses and permits in those banks designated by the state treasurer as state depositories. No member of the Authority shall be personally liable for any loss caused by the default or failure of such depositories. All funds of the Authority deposited in any bank or trust company shall be entitled to the same priority of payment as public funds of the State.

Section 27. **Authority Receipts Owned by State.** All properties, whether real or personal, all moneys acquired, administered, possessed or received by the Authority, and all profits earned in the operation of this Act, shall be the property of the State.

Section 28. **Audits.** The state auditor and/or such private auditors as the governor may designate shall audit the accounts of the Authority annually and report thereon to the governor and to the legislature. The books, records, and accounts of the Authority shall, however, be subject to examination and audit by the state auditor at any time.

Section 29. **Annual Report.** At the close of each fiscal year the General Manager and the Board shall make an annual report on the work of the Authority to the governor and to the legislature. This report shall contain a statement of the nature and amount of business conducted by the Authority, a statement of its financial transactions, including profits and losses, a record of licenses, permits, and agency agreements issued, suspended, and cancelled, consumption of the various classes of alcoholic liquors, and general information and suggestions on the working of this Act.

Part IV. State Liquor Stores

Section 30. **Establishment of State Liquor Stores.** The Authority shall establish and maintain, for the sale of the several alcoholic liquors as herein defined, other than beer of an alcoholic content not in excess of four per centum by volume, at such places throughout the State as in its discretion it shall deem essential and/or advisable, a system of state-owned and operated stores to be known as State Liquor Stores, subject to the provision of Part VII of this Act.

Section 31. **Stocks of State Liquor Stores.** Every State Liquor Store shall keep in stock for sale such classes, varieties, and brands of

liquor as the Authority shall prescribe. If any person shall desire to purchase any class, variety or brand of alcoholic liquor which any such store does not have in stock, it shall be the duty of such store to order the same upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the Authority. The customer shall be notified upon the arrival of the goods. Unless the customer pays for and accepts delivery of any such special order within ——— days after notice of arrival, the store may place it in stock for general sale and the customer's deposit shall be forfeited.

Section 32. **Sales only by Packages.** All alcohol and alcoholic liquor sold in State Liquor Stores shall be in sealed packages, containing such quantity as the Authority may prescribe, and shall have the price fixed by the Authority clearly stamped thereon. No such package may be opened on the premises of a State Liquor Store.

Section 33. **Prices.** The Authority shall from time to time fix the prices at which the various kinds and brands of alcoholic liquors shall be sold through the State Liquor Store. Such price lists shall be posted in each store as provided by the regulations of the Authority.

Section 34. **Limitation of Purchases.** The Authority is authorized to limit the amount of liquor which may be purchased from a State Liquor Store by any person at one time and a record of all such purchases shall be kept by the vendors.

Section 35. **Receipts.** Every purchaser of alcohol or alcoholic liquor from a State Liquor Store shall receive a numbered receipt which shall show the brand of liquor, the price paid therefor, and such other information as the Authority may prescribe. Duplicate copies of all receipts issued by a State Liquor Store shall be retained by and shall form part of the records of such store.

Section 36. **Salaries of Vendors not to be Based on Profits.** The salaries of State Liquor Store employees shall not be based upon the number of sales nor upon the profits from sales of alcohol or alcoholic liquor, but each employee shall receive a fixed annual salary.

Section 37. **Responsibility of Vendors.** All vendors appointed under this Act shall, under the directions of the Authority, be responsible for the carrying out of the provisions of this Act, and the regulations made thereunder, so far as they relate to the conduct of such store and the sale of alcohol and alcoholic liquor thereat.

Section 38. **Liquor not to be Consumed on Premises.** No vendor or other employee of a State Liquor Store shall allow any liquor to be consumed on the premises of such a store, nor shall any person consume any liquor on such premises.

Section 39. **Sales—When Prohibited.** No sale or delivery of alcohol or alcoholic liquor shall be made on or from the premises of any State Liquor Store, nor shall any State Liquor Store be open for the sale of alcohol or alcoholic liquor—

(a) On Sunday or any other holiday;

(b) On any day on which polling takes place at any national or state election held in the electoral district in which the store is situated;

(c) On any day on which polling takes place at any municipal election held in the municipality in which the store is situated;

(d) During such other period and on such other days as the Authority may direct.

Section 40. **Hours of Sale in State Stores.** The Authority shall designate the hours during which the State Liquor Stores may be open for the sale of alcohol and alcoholic liquor and during which sale or delivery of alcohol or alcoholic liquor may be made on or from the premises of any State Liquor Store.

Section 41. **Sales upon Prescriptions.** A vendor may sell alcoholic liquor to any person upon the prescription of a physician given pursuant to this Act, but no more than one sale and one delivery shall be made on any one prescription.

Part V. Licenses and Agency Agreements, and the Manufacture and Sale of Alcohol and Alcoholic Liquor by Licensees and Agencies

Section 42. **Classes of Licenses and Permits.** The Authority, in its discretion, may, upon application in the prescribed form made to it or to any official authorized by it, issue to the applicant a license or permit of the class applied for, as follows:

(a) Distiller's License
(b) Brewer's License

(c) Vintner's License
(d) Beer Tavern License
(e) Refreshment Establishment Beer License
(f) Retail Store Beer License
(g) Medicinal Alcohol Permit
(h) Industrial Alcohol License
(i) Special Licenses or Permits as may be determined by the Authority

Section 43. **Classes of Agency Agreements.** In addition to the State Liquor Stores and the licenses and permits hereinabove provided for, the Authority, in its discretion and subject to the provisions of Part VII of this Act, may make further provision for the sale of alcoholic liquors to consumers by appointing as its agents persons, firms or corportations engaged in the business of grocer, tavern, hotel or restaurant proprietor, or clubs as defined in this Act. There shall be drawn up agreements, to be known as agency agreements, between such agents and the Authority of the following classes:

(a) Retail Store Agency Agreement
(b) Liquor Tavern Agency Agreement
(c) Hotel Agency Agreement
(d) Restaurant Agency Agreement
(e) Club Agency Agreement

Section 44. **License or Agreement to Specify Person and Premises.** Every license, permit or agency agreement under this Act shall apply to the person to whom it is issued and to the premises for which it is issued and specify by street and number the location of the premises in respect to which the license, permit or agency agreement is issued. If the license, permit or agency agreement is issued under a fictitious name, such license, permit or agency agreement shall set forth in addition to said name, the name or names of each of the persons conducting the business under the fictitious name.

Section 45. **Rules Relating to Licenses and Agreements.** Each license, permit or agency agreement shall be signed by the licensee, permittee or agent, shall be transferable only with the approval of the Authority at its discretion, shall be posted in a conspicuous place on the premises in respect to which it was issued, and shall be exhibited to any duly authorized representative of the Authority whenever the same is requested.

Section 46. **Separate License or Agreement for each Business.** Each license, permit or agency agreement issued under the provisions of this Act is separate and distinct, and no person shall exercise any of the privileges granted under any license, permit or agency agreement other than that which he holds. A separate license, permit or agency agreement shall be issued for each specific business and each location, and in said license, permit or agency agreement the particular liquor or liquors which the applicant shall be authorized to manufacture and/or to sell shall be named and described. The Authority shall determine what constitutes a single store, business, or establishment with respect to the issuance of the license, permit or agency agreement herein provided for, and its decision shall be final and conclusive.

Section 47. **Fees.** All recipients of licenses, permits, and/or agency agreements shall pay to the Authority therefor

(a) a minimum fee to be fixed by classes by the Authority from time to time which shall not exceed $100 annually payable in advance, and

(b) a quarterly payment equal to fifty per centum of the net income, or twenty per centum of the gross receipts from the business transacted under the license, permit, and/or agency agreement, whichever is the larger sum as determined under rules and regulations to be promulgated by the Authority. Said quarterly payment shall be paid in advance at a figure estimated by the Authority and/or secured by bond in accordance with rules and regulations of the Authority, subject to a refund within sixty days of the amount paid in advance in excess of the amount found to be due at the close of the quarter period; provided the Authority may establish classes of permits for which only a fixed fee, irrespective of gross receipts or net income, shall be chargeable.

Section 48. **Manufacturers' Licenses.** Manufacturers shall be licensed only

(a) to produce, manufacture, distill, rectify, and compound alcohol and alcoholic liquors;

(b) to sell alcohol and alcoholic liquors within the State exclusively to the Authority, except that beer of an alcoholic content not in excess of four per centum by volume may be sold by a manufacturer directly to any individual or establishment holding a license, permit or agency agreement authorizing the purchase thereof;

(c) to sell alcohol and alcoholic liquors to

dealers and distributors in other states and territories, the laws of which permit the sale of alcoholic liquors for beverage or other purposes;

(d) to sell for export to foreign countries if such export for beverage purposes is permitted by the laws of the United States.

Section 49. **Beer Taverns, Drug Stores, etc.—Beer Licenses.** Beer taverns, and drug, candy, and refreshment stores shall be licensed only

(a) to purchase beer of an alcoholic content not in excess of four per centum by volume from manufacturers of this State and from manufacturers, producers, and importers of other states and territories, the laws of which permit the manufacture and sale of such alcoholic liquors for beverage purposes, and from the Authority such beverages imported by it from foreign countries; and

(b) to resell such beer to customers for consumption upon the premises; provided, however, that nothing in this section shall be construed to prohibit the sale of alcoholic liquors by drug stores for medicinal purposes as hereinunder provided.

Section 50. **Retail Store Beer Licenses.** Retail stores shall be licensed only

(a) to purchase beer of an alcoholic content not in excess of four per centum by volume in sealed packages from manufacturers of this State and from manfacturers and producers and importers of other states and territories, the laws of which permit the manufacture and sale of such alcoholic beverages, and from the Authority such beverages imported by it from foreign countries; and

(b) to resell such beer in sealed packages to customers for off-premises consumption.

Section 51. **Medicinal Alcohol Permit.** A Medicinal Alcohol Permit in prescribed form may be granted to a druggist, physician, surgeon, dentist or veterinarian entitling the applicant to purchase alcohol and alcoholic liquor to be used solely as medicine or in connection with the business of compounding medicines; provided that in a locality where there is no State Liquor Store nor agency a druggist may keep for sale and may sell for strictly medicinal purposes alcohol and alcoholic liquor purchased by him from the Authority, but no sale of alcohol or alcoholic liquor shall be made by such last mentioned druggist except upon a bona fide prescription signed by a physician and no more than one sale and one delivery shall be made on any one prescription.

Section 52. **Industrial Alcohol License.** An Industrial Alcohol License in the prescribed form may be granted to a person engaged within the State in mechanical or manufacturing business, or in scientific pursuits, requiring alcohol or alcoholic liquor for use therein, entitling the applicant to purchase alcohol or alcoholic liquor for the purpose named in such permit, and in accordance with the terms and provisions of such permit, and in accordance with the provisions of this Act, and the regulations made thereunder.

Section 53. **Special Licenses and Permits.** The Authority shall have power to issue special licenses and/or permits for any purpose, for any period of time, and under such rules and regulations as it in its discretion may prescribe.

Section 54. **Retail Store Agency Agreements.** The agency agreement issued to a retail grocery store shall authorize the agent only

(a) to purchase alcoholic liquors from the Authority, and

(b) to sell such alcoholic liquors to consumers in sealed packages for consumption off the premises where sold.

Section 55. **Liquor Tavern Agency Agreement.** The agency agreement issued to a liquor tavern shall authorize the agent only

(a) to purchase alcoholic liquors from the Authority, and

(b) to sell such alcoholic liquors to consumers for consumption on the premises where sold.

Section 56. **Hotel and Restaurant Agency Agreements.** The agency agreement issued to a hotel or restaurant shall authorize the agent only

(a) to purchase beer and wine of natural fermentation of an alcoholic content not in excess of fourteen per centum by volume from the Authority, and

(b) to sell such beer and wine to customers for consumption upon the premises, but only in the room or rooms where meals are served, except that hotels may serve beers and wines to duly registered guests in their rooms.

Section 57. **Sale of Spirits by Hotels and Restaurants.** In localities where the electors through special petition as provided in Part VII of this Act have voted to allow the sale of all alcoholic liquors for consumption on the premises where sold, hotels and restaurants may, in addition to the privileges provided in Section 56,

(a) purchase spirits and fortified wines from the Authority, and

(b) sell such spirits and fortified wines to customers for consumption upon the premises, but only in the room or rooms where meals are served except that hotels may serve spirits and fortified wines to duly registered guests in their rooms.

Section 58. **Club Agency Agreements.** The agency agreement of a club shall authorize the agent only

(a) to purchase alcoholic liquors from the Authority, and

(b) to sell such alcoholic liquors to the members of such club for consumption on and off the premises where sold.

Section 59. **Applications for Licenses and Agreements — Qualifications.** Applications for licenses, permits, and agency agreements under the provisions of this Act shall be made to the Authority on forms prepared and furnished by the Authority and shall set forth such information as the Authority may require to enable it to determine whether a license, permit or agency agreement should be granted. Each application shall be verified by the oath or affirmation of such person or persons as the Authority may prescribe. Before granting any license, permit or agency agreement for which application has been made, one or more member or agent of the Authority may visit and inspect the plant or property in which the applicant proposes to conduct his business, and investigate the fitness to conduct such business of any person or the officers and directors of any corporation applying for a license, permit or agency agreement to conduct such business. In granting licenses, permits, and agency agreements, the Authority shall consider the reasonable requirements of the neighborhood and the desires of the inhabitants as evidenced by petitions, remonstrances or otherwise.

Section 60. **Refusal of License or Agreement.** The Authority may refuse a license, permit or agency agreement, if in its opinion the premises on which the applicant proposes to conduct his business do not meet the requirements of this Act, or if in its opinion the character of the applicant or its officers or directors is such that violations of this Act would be likely to result if a license, permit or agency agreement were granted, or if in its opinion licenses, permits, and agency agreements already granted for the particular locality are adequate for the reasonable needs of the community. Upon written demand by an applicant who has been refused a license, permit or agency agreement, the Authority shall state in writing its reasons for such refusal.

Section 61. **Term and Renewal of Licenses and Agreements.** All licenses, permits, and agency agreements shall be granted for such term as the Authority may determine, but in no event for a period in excess of three years. Applications for the renewal of licenses, permits, or agency agreements shall be made on or before the first day of December of the year of expiration of such licenses, permits or agency agreements. Once a license, permit or agency agreement has been granted the Authority may refuse to renew the same only for violations of this Act or regulations thereunder, or because of a decision by the Authority to reduce the total number of licenses, permits or agency agreements, granted for the particular community.

Section 62. **Suspension and Revocation of Licenses and Agreements.** In addition to any other penalties prescribed by this Act, the Authority shall have power on its own motion, or on complaint, after investigation and hearing at which the licensee, permittee or agent shall be afforded an opportunity to be heard, to suspend and/or revoke any license, permit or agency agreement granted by it, for any violation of the provisions of this Act, or of any rule or regulation adopted by the Authority, or of any of the terms, conditions or provisions of the license, permit or agency agreement by the licensee, permittee or agent, or any of the agents, servants or employees of such licensee, permittee, or agent, or for violation of any other provision of law or local ordinance or regulation.

Notice of suspension or revocation, as well as any required notice of hearing, shall be

given by mailing the same in writing to the licensee, permittee or agent, at the address contained in the license, permit or agency agreement. A license, permit or agency agreement, may be temporarily suspended without notice, pending any prosecution, investigation or hearing; provided, that nothing herein contained shall prevent the summary suspension of a license, permit or agency agreement for a period not exceeding fifteen days. No suspension shall be for a longer period than six months. The Authority shall have power to reinstate, in its discretion, any license, permit or agency agreement which shall have been suspended or revoked. Whenever a license, permit or agency agreement is suspended or revoked, no part of the fees paid therefor shall be returned to the holder.

Section 63. **Qualifications of Licensees and Agents.** No person who has been convicted of a violation of any federal or state law concerning the manufacture or sale of alcohol or alcoholic liquor prior or subsequent to the passage of this Act or who has paid a fine or penalty for any such violation in settlement of any prosecution against him, or shall have forfeited his bond to appear in court to answer charges for any such violation, shall be deemed a suitable person to be granted a license, permit or agency agreement within the meaning of this Section. No license for the manufacture, or license, permit or agency agreement for the sale of alcohol or alcoholic liquor shall be granted to any person who has been convicted of a felony or who is not a citizen of the United States, provided, however, that any alien who has applied for and received his first naturalization papers and who satisfies the Authority of his bona fide intention to apply for and take out his final papers, may in the discretion of the Authority be granted a license, permit or agency agreement which shall not continue or be renewed beyond the date when such final papers are obtainable by the applicant unless he applies for and takes out the same. No license, permit or agency agreement shall be granted to any sheriff, deputy sheriff, grand juror, justice of the peace, prosecuting officer, or to any person keeping a house of ill fame or to any applicant unless he is with respect to his character, record, and reputation satisfactory to the Authority.

Section 64. **Transportation.** The right to transport into or within the State alcohol or alcoholic liquor shall be set forth in the various types of licenses, permits, and agency agreements granted by the Authority and the Authority may issue rules and regulations to govern such transportation. The Authority may also issue special permits and licenses for vehicles and may charge a fee not in excess of one dollar for such permits and licenses, provided, however, that nothing herein contained shall be construed to prevent any person from transporting without any license or permit, in sealed packages legally purchased, alcohol and alcoholic liquors, in the amount permitted by the Authority, for his own use and that of his family.

Section 65. **Minimum Age for Licensees and Agents.** No person shall receive a license, permit or agency agreement under this Chapter who is under twenty-one years of age.

Section 66. **Legal Status of Agents.** No agency appointment shall operate to alter in any way the status of an agent holding such an agency agreement with respect to any business or activities outside the scope of the agency, nor accord to such individual or corporation any immunity or privilege not specifically provided for by this Act or the regulations of the Authority.

PART VI. PROHIBITIONS, INTERDICTION, SEIZURES, PENALTIES, AND PROCEDURE IN PROSECUTIONS AND ON APPEAL

Section 67. **Prohibited Sale—Exceptions.** Except as provided in this Act it shall be unlawful for any person by himself or by an employee or agent to expose or keep for sale, or directly or indirectly or upon any pretense or upon any device to sell or offer to sell any alcohol or alcoholic liquor within this State, but this clause shall not be construed to prohibit hospitals, physicians, surgeons, dentists, veterinarians, or similar practitioners, who are licensed and registered under the laws of this State from administering alcohol or alcoholic liquor in the regular course of their professional work and taking into account the cost of the liquor so administered in making charges for their professional services; provided, however, that the Authority may establish rules and regulations governing such use.

Section 68. **Prohibited Possession.** It shall be unlawful for any person except a manufacturer or the Authority to keep any alcohol or alcoholic liquor within the State which has not been purchased from the Authority or a State Liquor Store.

Section 69. **Prohibition of Tied Houses, etc.** It shall be unlawful for any manufacturer

(a) to be interested directly or indirectly in any premises where alcohol or alcoholic liquors are sold at retail, or in any business devoted wholly or partially to the sale of alcohol or alcoholic liquors at retail, by stock ownership, interlocking directors, mortgage or ing with the owner or the proprietor of any other means;

(b) to make any loan to the owner or proprietor or employee of any retail business, or to extend credit to such owner, proprietor or employee; provided, however, that nothing in this section is construed to prohibit merchandising credit extended in the ordinary course of business for a period not to exceed sixty days; and

(c) to enter into a contract or understanding with the owner or the proprietor of any retail business whereby such proprietor agrees to confine his sales to alcoholic liquors manufactured by one or more manufacturers. If the Authority finds that any such manufacturer or retail licensee, permittee or agent is violating this Section, such violation shall be sufficient cause for the revocation of the licenses, permits or agency agreements of all parties participating in such violation.

Section 70. **Packages to Bear Official Seal.** It shall be unlawful for any person except a manufacturer or the Authority to have or keep any alcohol or alcoholic liquor within the State unless the package in which the alcohol or alcoholic liquor is contained has while containing that liquor been sealed with the official seal of the Authority; provided, however, that the provisions of this section shall not apply to receptacles containing alcoholic liquor for immediate consumption.

Section 71. **Sales on Credit.** It shall be unlawful for any State Liquor Store, or any licensee, permittee or agent to sell or offer to sell any alcohol or alcoholic liquor to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member, and by grocers and druggists who maintain a credit system in connection with other purchases as well, subject to such regulations as the Authority may establish. No right of action shall exist to collect any claim for credit extended contrary to the provisions of this Section.

Section 72. **Sales not for Cash Forbidden.** It shall be unlawful for any State Liquor Store, or licensee, permittee or agent to sell, offer to sell or furnish any alcohol or alcoholic liquor to any person on a passbook or store order, or to receive from any person any goods, wares, merchandise or other articles in exchange for alcohol or alcoholic liquor.

Section 73. **Adulteration Forbidden.** It shall be unlawful for any licensee, permittee or agent or an employee or agent of a licensee, permittee or agent of the Authority to fortify, adulterate, or contaminate any alcohol or alcoholic liquor except as permitted by the regulations of the Authority.

Section 74. **Advertisements.** All advertising of any kind or description within the State is hereby prohibited except in accordance with a code of regulations to be adopted and promulgated by the Authority. No letter, postal card, circular, newspaper, pamphlet or publication or device of any kind containing or constituting advertisement of spirituous, vinous, malted, fermented or other alcoholic liquors of any kind shall be delivered to any addressee at any place in this State except in accordance with such code.

Section 75. **Sales to Minors etc. Prohibited.** No licensee, permittee, or agent or employee of a licensee, permittee or agent or of the Authority shall sell or offer to sell or deliver any alcohol or alcoholic liquor to any person under the age of twenty-one years, to any person visibly intoxicated, to any lunatic, or to a person interdicted, as provided in Section 76 of this Act.

Section 76. **Sales to Habitual Drunkards Prohibited.** Whenever any person shall complain to the Department of Public Welfare of any town, or if there is no such department, to the officer in charge of Public Poor Relief, or to any prosecuting officer that his or her father, mother, husband, wife, child, brother, sister or ward, is addicted to the

excessive use of alcoholic liquor, and shall request said Department of Public Welfare, officer of Public Poor Relief, or prosecuting officer in writing, to notify the agents of the Authority and licensees and permittees in said town not to sell, exchange or give any such liquors to such father, mother, husband, wife, child, brother, sister or ward, such Department of Public Welfare, officer of Public Poor Relief, or prosecuting officer shall, on being satisfied that the complaint is true, forthwith notify in writing every agent of the Authority and every licensee and permittee in such town that such request has been made and that the sale, exchange or gift of such alcoholic liquor is forbidden, and such Department of Public Welfare, officer of Public Poor Relief, or prosecuting officer shall keep record of such notification, which may be used as evidence. Such notification shall remain in force so long as such agents and licensees and permittees shall continue to be permitted to sell alcohol or alcoholic liquor, but the Department of Public Welfare or officer of Public Poor Relief or prosecuting officer may revoke such notification at any time.

Section 77. **Analysis of Specimens.** The analyst or assistant analyst of the Authority shall upon request make, free of charge, an analysis of all alcohol and alcoholic liquors sent to him by police or health officers or other officers authorized by law to make seizures of alcoholic liquors. The said analyst or assistant analyst shall return to such police or other officers, as soon as may be, a certificate, signed by said analyst or assistant analyst making such analysis, of the percentage of alcohol etc. which such samples of liquors contain. Such certificate shall be prima facie evidence of the composition and quality of the alcoholic liquor to which it relates, and the court may take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he is such.

Section 78. **Certificate of Analysis.** A certificate shall accompany each sample of liquors sent for analysis by an officer to the Authority, stating by whom the liquors were seized, the date of the seizure, and the name and residence of the officer who seized said liquors. Said Authority shall note upon said certificate the date of the receipt and the analysis of said alcoholic liquors and the percentage of the alcohol, as required by the preceding section. Said certificate shall be in the form prescribed by the Authority.

Section 79. **Certificate as Evidence.** The secretary of state shall provide and cause officers to be supplied with a suitable number of the forms prescribed by the preceding section. The certificate of the Authority shall be admitted as evidence on trials for the forfeiture of alcoholic liquors as to the composition and quality of the liquors to which it relates.

Section 80. **Analysis under Court Order.** Any court or trial justice may cause alcoholic liquors which have been seized under this chapter to be analyzed by a competent chemist, and the reasonable expense thereof shall be taxed, allowed, and paid like other expenses in criminal cases.

Section 81. **Delivery as Prima Facie Evidence of Sale.** The delivery of alcohol or alcoholic liquors in or from a building, booth, stand or other place, except a private dwelling house, if any part thereof or its dependencies is used as an inn, eating house, vehicle, or shop of any kind, such delivery in either case being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

Section 82. **Search Warrants and Seizures.** If two persons of full age make complaint to a court or trial justice or justice of the peace authorized to issue warrants that they have reason to believe and do believe that alcohol or alcoholic liquors, described in the complaint, are kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel, or place, and are intended for sale contrary to law, such court or justice, if it appears that there is probable cause to believe said complaint to be true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy chief of police, deputy marshal, police officer, state police officer or constable, commanding him to search the premises in which it is alleged that such alcohol or alcoholic liquors are deposited, and to seize such liquors, the vessels in which they are contained, and all implements of sale and furniture used or kept and provided to be used in the illegal keeping or sale of such liquors, and securely

keep the same until final action thereon, and return the warrant with his doings thereon, as soon as may be, to a district court or trial justice having jurisdiction in the place in which such alcohol or alcoholic liquors are alleged to be kept or deposited.

Section 83. **Notice of Order to Show Cause.** The court or trial justice before whom the warrant is returned shall, within twenty-four hours after the seizure thereunder of the alcohol or alcoholic liquors and the vessels containing them, issue a notice, under seal, and signed by the justice or clerk of said court, or by the trial justice, commanding the person complained against as the keeper of the liquors seized and all other persons who claim any interest therein or in the vessels containing the same to appear before said court or trial justice, at a time and place therein named, to answer to said complaint and show cause why such liquors and the vessels containing them should not be forfeited.

Section 84. **Service of Notice.** The notice shall, not less than —— days before the time appointed for trial, be served by a sheriff, deputy sheriff, constable or police officer upon the person charged with being the keeper of the alcohol or alcoholic liquor seized, by leaving an attested copy on the building in which the alcoholic liquors were seized, if they were found in a building; otherwise in a public place in the city or town in which the liquors were seized.

Section 85. **Proceedings for Forfeiture.** At the time and place designated in the notice, the person complained against or any person claiming an interest in the alcoholic liquors and vessels seized, or any part thereof, may appear and make his claim verbally or in writing, and a record of his appearance and claim shall be made, and he shall be admitted as a party to the trial. Whether a claim as aforesaid is made or not, the court trial justice shall proceed to try, hear, and determine the allegations of such complaint, and whether said liquors and vessels, or any part thereof, are forfeited. If it appears that the liquors or any part thereof, were at the time of making the complaint owned or kept by the person alleged therein for the purpose of being sold in violation of law, the court or trial justice shall render judgment that such and so much of the liquors so seized as were so unlawfully kept, and the vessels in which they are contained, shall, except as hereinafter provided, be forfeited to the State.

Section 86. **Disposition of Forfeited Merchandise.** Any alcoholic liquors and vessels so forfeited shall, by authority of the written order of the court or trial justice, be forwarded to the Authority, which upon receipt of the same shall notify said court or justice thereof. If, in the judgment of the Authority, it is for the best interest of the State that such liquors and vessels be destroyed, it shall destroy or cause the destruction of such liquors and vessels, but if in its judgment it is for the best interests of the State to sell the same, it shall cause the same to be sold, or it may deliver such alcoholic liquors to any department or agency of the State for medical, mechanical or scientific uses.

Section 87. **Restitution of Merchandise Seized without Cause.** If it is not proved on the trial that all or part of the liquor seized was kept or deposited for sale contrary to law, the court or trial justice shall issue a written order to the officer having the same in custody to return so much thereof as was not proved to be so kept or deposited and the vessels in which it is contained, to the place as nearly as may be from which it was taken, or to deliver it to the person entitled to receive it. After executing such order, the officer shall return it to the court or trial justice with his doings endorsed thereon.

Section 88. **Costs.** If no person appears and is admitted as a party as aforesaid, or if judgment is rendered in favor of all the claimants who appear, the cost of the proceedings shall be paid as in other criminal cases. If only one party appearing fails to sustain his claim, he shall pay all the costs except the expense of seizing and keeping the liquors, and an execution shall be issued against him therefor. If judgment is rendered against two or more claimants, the cost shall, according to the discretion of the court or trial justice, be apportioned to such parties, and executions shall be issued against them severally. If such execution is not forthwith paid, the defendant therein named shall be committed to jail, and shall not be discharged therefrom until he has paid the same and the

costs of commitment, or until he has been imprisoned thirty days.

Section 89. **Appeals.** A claimant whose claim is not allowed as aforesaid, and the person complained against, shall each have the same right of appeal to the superior court as if he had been convicted of crime; but before his appeal is allowed he shall recognize to the State in the sum of ——— dollars, with sufficient surety or sureties, to prosecute his appeal to the superior court and to abide the sentence of the court thereon. Upon such appeal, any question of fact shall be tried by a jury. On the judgment of the court after verdict, whether a forfeiture of the whole or any part of the alcoholic liquors and vessels seized, or otherwise, similar proceedings shall be had as are directed in the preceding sections.

Section 90. **Certificate of Conviction.** Upon the conviction of a holder of a license or permit under this Chapter of the violation of any law relative to the business he is licensed or permitted to pursue the court in which he has been convicted shall send to the Authority a certificate under seal, showing the time and place of such conviction.

Section 91. **Declaration of Common Nuisance.** All alcohol and alcoholic liquors which are kept for sale contrary to law and the implements and vessels actually used in selling and keeping the same are declared to be common nuisances.

Section 92. **Violations—Separate Offenses.** Every corporation, association, copartnership, or individual engaged in the traffic in liquor shall upon conviction of a violation of any of the provisions of this Act be liable for and suffer the penalties imposed therein; and in construing and enforcing the provisions of this Chapter relating to penalties, the act of a director, officer, agent, or any clerk, servant or other person acting for or employed by a corporation, association, copartnership or individual subject to the provisions of this Act, and acting within the scope of his employment, shall be deemed the act of such corporation, association, copartnership, or individual. Each violation of any of the provisions of this Act shall constitute a separate and complete offense. When such violation consists of the manufacture or production of alcohol or alcoholic liquors, contrary to the provisions of this Act, each day during which or any part of which such manufacture or production is continued shall be deemed a separate violation. When the violation consists of the sale, or the offering or exposing for sale of alcohol or alcoholic liquors contrary to the provisions of this Act, the sale of each one of several packages shall constitute a separate violation, and each day on which any such liquor is offered or exposed for sale shall constitute a separate violation. Every violation of any rule or regulation of the Authority shall constitute a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall constitute a separate and complete offense.

Section 93. **Penalties and Forfeitures.** Every corporation, association, copartnership or individual and all officers, agents, and employees thereof violating any of the provisions of this Act or of any rule or regulation made under authority of this Act, and every licensee, permittee or agent failing to comply with any of the terms, conditions or provisions of this Act or of his license, permit or agency agreement shall be liable to the penalties and forfeiture hereinafter prescribed.

1. Any person trafficking in alcoholic liquor who is prohibited from so doing pursuant to the provisions of Section 67, or who does so in territory wherein such traffic is prohibited pursuant to the provisions of Sections 95 to 98, inclusive, or who has not obtained a license, permit or agency agreement therefor pursuant to the provisions of Sections 42 and 46, or who has neglected or refused to make application for a license, permit or agency agreement therefor pursuant to the provisions of Section 59, or to give the bond required therefor pursuant to the provisions of Section 47, or to pay the fee prescribed therefor pursuant to the provisions of Section 47, shall be guilty of a misdemeanor, punishable by a fine of $1,000, provided that such fine shall equal at least double the amount of the license fee for one year imposed by this Act upon the kind of traffic in liquors which is being carried on, at the place where carried on, or which would be so imposed if such traffic were lawful; or by imprisonment for not less than thirty days nor more than one year; or by both such fine and imprisonment.

2. Any person who shall make any false statement in the application for a license, permit or agency agreement pursuant to the provisions of Section 59, or for a transfer thereof, or shall violate any of the provisions of Sections 39, 45, 63, 69, and 75 shall be guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment for not more than one year or by both such fine and imprisonment.

3. Any person violating any provisions of this Act for which no penalty or punishment is otherwise prescribed shall be guilty of a misdemeanor, punishable by a fine of not more than $1,000 or by imprisonment of not more than one year or by both such fine and imprisonment.

Section 94. **Appeals.** An appeal shall lie from any conviction or order made in the prosecution of this Act and the practice and procedure on any appeal from any such conviction or order, and all proceedings thereon, shall be governed by the law applicable to appeal in criminal cases.

PART VII. LOCAL OPTION PROVISIONS

Section 95. **Local Option Area.** In every county or city in this State, and in any other governmental unit in the State when approved by the Authority, an election may be held not oftener than once in five years to determine the will of the electors with respect to the sale of alcohol and alcoholic liquors by the Authority and the granting of licenses, permits and agency agreements by the Authority for such sale within the limits of such county, city, town or other approved governmental unit. All of the provisions of this Act shall apply throughout the entire State except in so far as they shall be modified by the vote of the voters in any county, city, town, or other governmental unit in the manner provided in this Part VII of this Act.

Section 96. **Questions Submitted.** Whenever electors equal to at least ——— per centum of the highest vote cast for any office in the county, city, town or other approved governmental unit at the last preceding general election shall petition the governing board or body or other controlling authority thereof for a referendum on the question of prohibition or permitting the sale therein of alcohol and alcoholic liquor, the respective governing board, body, or other controlling authority shall cause questions to be submitted at a special election occurring at least ——— days thereafter by certifying a resolution duly adopted to the board of elections for the submission of such questions by ballot in the manner provided by the election laws of the State so far as they may be applicable.

Such questions shall be in the following form:

Question 1.	Shall the sale of alcoholic liquor by the package for consumption off the premises where sold be permitted?	Yes No
Question 2.	Shall the sale of beer and naturally fermented wine by the drink for consumption on the premises where sold be permitted?	Yes No
Question 3.	Shall the sale of alcoholic liquor by the drink for consumption on the premises where sold be permitted?	Yes No

Section 97. **Effect of Vote.** In granting licenses and permits and in establishing state liquor stores and agencies within said local option territory, the Authority shall be governed by the majority decision of the voters, voting thereon, provided, however, that an affirmative vote on question three shall be construed as an affirmative vote also on questions one and two, regardless of the votes thereon, and an affirmative vote on question two shall likewise be construed as an affirmative vote on question one, regardless of the vote thereon, and provided further that such local option election shall not affect the issuance of licenses and permits for the sale of alcohol and alcoholic liquors for medicinal purposes, or for beer and for naturally fermented wine not in excess of 14 per cent alcoholic content by weight; and provided further that nothing in this section shall be construed to exclude the importation of alcoholic liquors by the package into such county, city, town or other approved governmental unit by consumers for personal use from areas where such sale is permitted in accordance with the rules and regulations of the Authority. The decision of the voters shall become effective

thirty days after the filing of the certificate of the results of the election with the Authority by the local board of election, and all conflicting licenses, permits, agencies or stores shall be cancelled and discontinued on such date.

Section 98. **Further Restrictions by Authority.** The Authority may mark out any area or zone within the State, which it may think desirable from the standpoint of public welfare, and may establish therein restrictions or limitations, in its discretion, upon the sale of alcoholic liquors, provided that this action on the part of the Authority does not override a negative popular decision as expressed at the latest special election on the questions stated in Section 96.

PART VIII. GENERAL PROVISIONS

Section 99. **Appropriation.** The sum of ——— dollars, or so much thereof as may be necessary, is hereby appropriated from any money in the treasury not otherwise appropriated, and made available for the administration of the provisions of this Act, payable from the treasury on the audit and warrant of the chairman of the Authority.

Section 100. **Partial Invalidity—Saving Clause.** If any word, clause, sentence, paragraph, or section of this Act shall be declared invalid by any court of competent jurisdiction, the remainder of the Act shall not be affected.

Section 101. **Repeal of Inconsistent Provisions.** Any acts or parts of acts in conflict with the provisions of this Act are hereby repealed to the extent of such conflict.

Section 102. **Effective Date.** There being an emergency, this Act shall take effect on and after ———.

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